

ADVANCEME, INC.

Plaintiff,

VS.

RAPIDPAY, LLC, BUSINESS CAPITAL CORPORATION, FIRST FUNDS LLC, MERCHANT MONEY TREE, INC., REACH FINANCIAL, LLC and FAST TRANSACT, INC. d/b/a SIMPLE CASH

Defendants.

CAUSE NO. 6:05-CV-424 LED

ADVANCEME, INC.,

Plaintiff,

v.

AMERIMERCHANT, LLC.

Defendant.

§ 100.00

CAUSE NO. 6:06-CV-0082 LED

JURY TRIAL DEMANDED

On this day, the Court considered Defendants’ Statement of Objections to and Motion for Modification of Magistrate Judge Love’s December 21, 2006 *Markman* Memorandum Opinion and Order. After careful consideration, the Court finds Defendants’ objections to be meritorious. Accordingly, Defendants’ objections shall be, and are hereby, **GRANTED**.

It is, therefore, **ORDERED** that the *Markman* Memorandum Opinion and Order is modified in the following ways:

1. “Obligation” shall be construed as: “an amount owed by the merchant that is independent of any particular purchase and outside of any of the fees and/or costs normally imposed on the merchant for a typical processing transaction.”
2. “Third Party” shall be construed as: “party other than the merchant.”
3. The Court finds that no structure is disclosed for the claimed functions of “forwarding a portion of the payment to the third party” (Claim 10), “forwarding at least a portion of the accumulated payments to the third party” (Claim 17), “periodically forwarding at least a portion of the payment to the third party” (Claim 18), or “forwarding to the third party an amount that is a percentage of the obligation” (Claim 19).